

Role of Law in Emancipation of Woman

Archana Priyadarshini,

Student of LL.M. (2013-14), Roll No. 2010, BPS Women University, Sonipat, Haryana, India

Abstract

For a sustainable, qualitative, progressive, efficient and effective human life, it is essential that all contributors to it should be afforded fullest possible opportunities to realize their potential. Here it is specifically notable that a woman in tandem with a man is a unique contributor to the human life comprised of an environment having components of society, economics, politics, and civilization. So, if an environment is to be made congenial for creativity of a woman then all its components would have to be reoriented.

Acknowledged, a woman is a unique biological being carrying her physical attributes weaker in strength than that of a man. As a consequence, she has, since time immemorial, faced many disadvantageous situations resulting into further weakening of her position on social, economic or political fronts. Over long ages of domination by man, a psychological and **social conditioning**¹ has accrued which works against the full participation of woman in processes necessary for realization of her talent and capacity for any progressive set up of world. However, it is heartening that in the modern liberal world intellectual academic debates and discussions have begun to draw attention to the need of paving way for creating effective and equal opportunities for women also.

But, in the first instance, all social factors stymieing development of woman are required to be removed. To achieve this objective we require an **agent of social change**. And for this purpose the **law** is an obvious instrument which can reasonably be relied on to bring about attitudinal and social change in favour of women. So, to guard against the disadvantageous positioning of women in the society, a protective and supportive legal and institutional structure needs to be created. With this view, we have already generated a huge volume of legislations which speaks affirmatively for the women. Yet, with pride we cannot declare to the world at large that effective level playing field has been made available to women.

KEYWORDS: social conditioning, problems of women, disadvantages, subjugation, oppression, law, education, UNESCO, UNICEF, Gender Gap Report, UNHCR, sex ratio, mainstreaming, equality, empowerment (economic, political and social) and emancipation.

INTRODUCTION

A country of contradictions; so is called India by many commentators. Such contradictions are better brought to fore by none other than Indian woman. This is because at one end of feminine spectrum are highly oppressed women like Shah Bano, Nirbhaya, Damini, Roopkanwar, Naina Sahni etc., and at the other end of the same spec-

trum are many women like Indira Gandhi, Sarojini Naidu, Mangeshkar sisters, Arundhati Roy, Aishwarya etc. who are liberated, articulate and free.

This contradiction survives because in India we have streams of feudal and medieval customs as well as streams of modern liberal thoughts propelled by industrial social system. These opposite flowing streams existing simultaneously are giving rise to their respective results and impacts full of shocks depending upon the side which we are on.

In feudal and agricultural societies there was gender-based division of labour : men did outdoor work involving harder physical labour, and women did household chores. But in industrial societies this division of labour has almost entirely vanished, and women often do the same work as men and have become economically independent. Since in an industrial society brain is more important than brawn, and since the IQ of an average woman is the same as that of an average man, women should have equality with men.²

But physical prowess caused division of labour between men and women, in a long course of time, has put men in control of economic, political resources. Men then prevailed in social matters too. In the process, women lagged behind suppressed and oppressed.

Change is coming as in the Industrial Age physical prowess as reason of division of labour has already lost its force. Accordingly, many voices are being argumentatively, logically, effectively and convincingly raised against the fossilized division. As a necessary consequence, women are being liberated to impart increased efficiency to the human existence through involvement of their creativity and energy.

Here it is notable that laws too were accordingly amended to further spread and consolidate the message and argument of women liberation and empowerment. New ideas have started finding place in legal narrative. Legally empowered women are dreaming and achieving economic independence. By having coming together on political fronts they have further consolidated gains. In a sense, it can be said that economic, political, legal, social processes have played side by side in a complementary and supplementary manner to take women again in the direction of their dignified place in society. So, laws have been made good use of for the cause of women.

Objective of the Research Work

To examine whether the conditions of women have improved in India by using law as an agent of social change. And to know inhibiting factors in the path of emancipation of women. Further, to find out opportunistic and neutralizing tendencies of a self serving society. And to pronounce on the efficacy of law. Also to propose a way forward.

Hence, the present paper attempts to examine the journey of subjugation, empowerment and emancipation of Indian woman. Role of law has, all along, been kept in focus to discover and discuss its delivery and deficiency.

Research Methodology

The research methodology adopted for the present study is doctrinal in nature. Sources of information are essentially secondary. The researcher has placed heavy

reliance upon library sources, reports, journals, web journals, articles from newspapers and magazines and legal databases. Methods of analysis are critical and comparative.

Law: a guard trying to keep women in the vanguard

As a scholar of discipline of law, I must record my considered impressions that hardly I see a sphere relating to women where a beneficial legislation has not been created. To implement these legislations, many policies and welfare schemes exist which have proud aims for amelioration of the conditions of women.

Before I briefly refer to these laws and policies one by one hereinafter, I am anxious to record my other considered impression that despite such a huge architecture of legal environment favouring women, we daily come across umpteen reports in newspapers and electronic media, where a woman is depicted as brutalized, subjugated, trampled upon and what not. Sometimes I wonder as to why clamour for newer and newer laws are being made when the existing laws are not being applied in their letter and spirit.

We cannot simply infantilise women and restrict their choices. If India has to gain its rightful place in the 21st century then it will have to fight back the lawlessness that has left women vulnerable as they step out to taste freedom. And this means pushing back a nanny state that makes too many laws, some of which are intrusive and offensive to human rights. What is needed is minimum government, maximum governance. Ruefully, reverse of this is rampant. Had the implementation of laws been taken up in the spirit of objects and reasons of these laws, then the plight of women must certainly have improved. Perhaps, problem lies with the implementers and the interpreters of the law and not with the creators of laws.

Our implementers and interpreters carry their own baggage of social conditioning determined by social morality, social customs, social rituals, and social traditions in which they were brought up. This baggage of social conditioning is keeping them in shackles. Though overtly they try to justify their actions with the use of rhetoric in favour of women's cause, but covertly the same social customs and moralities are actually and incessantly working for neutralizing the gains made through legal processes.

Now let's have a glimpse of **women related laws existing in India:**

The Constitution

Originally, the drafters of our constitution were alive to the need for taking care of the special needs of legal protection to women. Accordingly, they embodied our original law too with many provisions favouring women which go to achieve effective equality between men and women. It guarantees to all Indian women:

1. Equality (Article 14),
2. Prohibition of discrimination by the State (Article 15(1)),
3. Equality of opportunity in employment (Article 16),
4. Equal pay for equal work (Article 39(d)).
5. Permission to the State to make special provisions in favour of women and children (Article 15(3)),

6. Protection of the dignity of women (Article 51(A) (e))
7. Just and humane conditions of work and maternity relief. (Article 42)

WOMEN-SPECIFIC LEGISLATIONS

1. The Dowry Prohibition Act, 1961 (28 of 1961)
Dowry, a social evil, stands banned after making of this law.
2. The Immoral Traffic (Prevention) Act, 1956
It makes trafficking and sexual exploitation of persons for commercial purpose a punishable offence. The Act was passed in line with the International Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, signed by India on May 9, 1950.
3. The protection of women from Domestic Violence Act, 2005
To provide for more effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family.
4. The Commission of Sati (Prevention) Act, 1987 (3 of 1988)
Sati was a custom featuring the burning or burying alive of widows or women. Since it was revolting to the feelings of human nature so this Act has been made to provide for the more effective prevention of the commission of sati and its glorification.
5. The Indecent Representation of Women (Prohibition) Act, 1986
To prohibit indecent representation of women through advertisements or in publications, writings, paintings, figures etc.
6. Code of Criminal Procedure, 1973
Many special procedures have been provided for women.
7. Indian Penal Code, 1860
Contains definitions and punishments for many offences sexual violence, dowry death, cruelty by inlaws etc. concerning women.
8. The Hindu Marriage Act, 1955 (28 of 1955)
To regulate personal life among Hindus, especially the institution of marriage, its validity, conditions for invalidity and applicability.
9. The Child Marriage Restraint Act, 1929
To restrain solemnization of the marriage of a child (as a person who, if a male, has not completed 21 year of age and has not completed 18 years of age, if a female).
9. The Medical Termination of Pregnancy Act, 1971 (34 of 1971)
To provide for the termination of certain pregnancies or to allow abortions.
11. The Guardians and Wards Act, 1869
12. The Indian Succession Act, 1925 (39 of 1925)
To consolidate the law applicable to intestate and testamentary succession. In the act, women in general, are conferred many rights superior to the men.
13. The Minimum Wages Act
To regulate payment of wages to workers employed in Industries and to ensure a speedy and effective remedy to them against illegal deductions and/or unjustified delay caused in paying wages to them.

Article 39 states that the State shall, in particular, direct its policy towards securing (a) that the citizen, men and women equally shall have the right to an adequate livelihood and (b) that there is equal pay for equal work for both men and women.

14. The Factories Act, 1948
15. The Hindu Adoptions & Maintenance Act, 1956
It deals specifically with the legal process of adopting children by a Hindu adult, as well as the legal obligations of a Hindu to provide "maintenance" to various family members including, but not limited to, their wife or wives, parents, and in-laws.
16. The Pre-Natal Diagnostic Technique
17. The Hindu Succession Act, 1956
To amend and codify the law relating to intestate or unwilled succession, among Hindus. The Hindu woman's limited estate is abolished by the Act. Any property possessed by a Hindu female is to be held by her absolute property and she is given full power to deal with it and dispose it of by will as she likes.
18. The Christian Marriage Act, 1872 (15 of 1872)
19. National Commission for Women Act, 1990 (20 of 1990)
To safeguard the rights of women.
20. The Bonded Labour System (Abolition) Act, 1976
21. The Equal Remuneration Act, 1976
To prevent any discrimination against women in making recruitment for the same work or work of a similar nature, (or in any condition of service subsequent to recruitment such as promotions, training or transfer), except where the employment of women in such work is prohibited or restricted by or under any law for the time being in force.
22. The Special Marriage Act, 1954
To facilitate and regulate inter religion marriages.
23. The Muslim Personal Law (Shariat) Application Act, 1937
24. The Hindu Minority & Guardianship Act, 1956
25. The Employees' State Insurance Act, 1948
To provide for certain benefits to employees in case of sickness, maternity and employment injury etc.
26. The Indian Evidence Act, 1872
In cases of dowry deaths, sexual assaults burden of proof lies on the accused.
27. The Family Courts Act, 1984
28. The Foreign Marriage Act, 1969 (33 of 1969)
29. The Contract Labour (Regulation & Abolition) Act, 1979
30. The Juvenile Justice (Care & Protection of Children) Act,
In this act special mention has been made of the weaker sex of the society; thereby showing the noble intent of the state to take special care thereof.
31. Protection of Human Rights Act,
32. The scheduled castes and the scheduled tribes (prevention of atrocities) act, 1989

Strands of law being generated at international forums

Pertinent to note that presently we are living in a globalized world where free flow of ideas on account of increased level of communication and mobility is the norm. Laws

taking birth in the western liberal democracies and under the aegis of United Nations and international bodies are finding their way in the body-politic of all countries including India. We cannot afford to ignore the international conventions, treaties and declarations containing the modern ideas for liberation and emancipation of whole humanity, and women and oppressed sections of population, in particular. These modern laws emanating in the industrialized western world have their merits as they profess individual freedom of a woman.

There is general consensus that Women Rights have acquired, more or less, same exalted status as those of Human Rights in the international covenants. Generic equality is a theme necessarily embodied in the formulation of all international laws. And if we want to be integral and responsible member of the international community then some of these laws which sometimes run counter to the customs have to be adopted. Sailing in two boats may be perilous. Better one has to be selected.

Following covenants, declarations, and treaties are calling upon the signatory countries to protect the rights of women among others:

- Universal Declaration of Human Rights (1948)
- Convention on the Political Rights of Women (1952)
- International Covenant on Civil and Political Rights (1966)
- International Covenant on Economic, Social and Cultural Rights (1966)
- Declaration on the Elimination of All Forms of Discrimination against Women (1967)
- Declaration on the Protection of Women and Children in Emergency and Armed Conflict (1974)
- Convention on the Elimination of All Forms of Discrimination against Women (1979)
- Declaration on the Elimination of Violence against Women (1993)
- Universal Declaration on Democracy (1997)
- Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (1999)

Other special institutional arrangements

1. Dedicated departments for women and child welfare at all government levels.
2. Reservation of seats for women in urban local bodies, PRIs and cooperative societies.
3. Formation of anti sexual harassment committees in all organizations whether state owned or not.
4. Free legal aid under law of legal services authorities.
5. Women police stations or Mahila Thana
6. Creation of all women banks,
7. All women schools and universities; and so on.

Welfare Schemes and policies being run for women in departments of central government and different states:

1. Ministry of human resource development has its stated goal of increasing percentage of female teachers up to 75% in the schools to make the environment more congenial and friendly for girl students. It is presumed that woman teachers will work as role models for girl students and understand their problems more compassionately.
2. To reduce the dropout from schools following schemes have been introduced:
 - a. Free education for girl child
 - b. Scholarships to SC / ST girl students
 - c. Free uniforms to all girl students
 - d. Mid day meal
3. Schemes for economic empowerment of women through encouraging ownership of immovable and moveable property in the name of woman.
To incentivize prospective buyers, governments have started offering 2% relaxation in stamp duty if purchase of a property is made in the name of a woman. This is proving effective in shifting ownerships towards women.
Likewise, if a water or electricity connection is in the name of a woman member of a house, reduced tariffs for electricity or water consumption are charged. This scheme also helps in the creation of evidentiary documentation useful for proving relations to a housing property.
4. Maternal and child care
A woman in the role of mother is saddled with a responsibility to take care of her children. As more and more women and mothers enter the workforce, child care has become an increasingly important public policy issue. To meet this end, the government has taken initiatives for the care of children under Anganbaris and schools. The health of children and the mother from nutritional and sanitational point of view has been given prominence in various policies like midday meal scheme, Aarogya Yojana, Aanganbari, Sanitation drive.
5. Traveling of women in state run transport system has been made free especially on occasion of many festivals.
6. Reservation of 30% posts of teachers for women candidates has been introduced.
7. Reservation of 30% of total seats has been made for women in Panchayati Raj Institutions and Municipalities. In some states like Bihar, this limit is up to 50%.
8. Of late, the government is slowly opening up for women many sectors like driving heavy vehicles, driving trains, flying aeroplanes and employment of women in combat zones which have normally been considered as male bastion so far. But we have still to go a long way

Women's Problems persisting in the teeth of Policies, Programmes, Plans and Provisions

Thomas Reuters Foundation survey says that India is the fourth most dangerous place in the world for women to live in. Police records in India show a high incidence of crimes against women. The National Crime Records Bureau data shows that growth in the rate of crimes against women exceeds the population growth rate. Earlier, there was under reporting due to social stigma attached to rape and molestation.

Following crimes are committed especially against women:

Acid Throwing

It is a premeditated crime intended to kill or maim permanently and to act as a lesson to put a woman in her place. In India, acid attacks on women who dared to refuse a man's proposal of marriage or asked for a divorce are a form of revenge. Acid is cheap, easily available, and the quickest way to destroy a woman's life. The number of acid attacks has been rising.

Child marriage

Child marriage has been traditionally prevalent in India and continues to this day. Historically, child brides would live with their parents until they reached puberty. In the past, child widows were condemned to a life of great agony, shaved heads, living in isolation, and being shunned by society. Although child marriage was outlawed in 1860, it is still in occurrence.

According to UNICEF, 47% of India's women aged 20–24 are found to be married before the legal age of 18, rising to 56% in rural areas. And 40% of the world's child marriages occur in India.

Domestic violence

The number of incidents of domestic violence is higher among the lower Socio-Economic Classes (SECs). The Protection of Women from Domestic Violence Act, 2005 is expected to check this menace.

Dowry

A 1997 report claimed that each year at least 5,000 women in India die dowry-related deaths, and at least a dozen die each day in 'kitchen fires' thought to be intentional. The term for this is "bride burning" and is criticized within India itself. Amongst the urban educated, such dowry abuse has reduced considerably.

Female infanticide and sex-selective abortion

The latest census figures show that the number of girls in the 0-6 age-group has fallen to the lowest since Independence –a mere 914 girls for every 1000 boys. However, tribal societies in India have a less skewed sex ratio than other caste groups, in spite of their far lower income levels, lower literacy rates, and less adequate health facilities. Adverse sex ratio can be attributed to female infanticides and sex-selective abortions.

Ultrasound scans often reveal the sex of the baby, allowing pregnant women to decide to abort female fetuses and try again later for a male child. This practice is usually considered the main reason for the change in the ratio of male to female children being born. PNDT ACT is (like the law forbidding dowries) is widely ignored, and levels of abortion on female fetuses remain high and the sex ratio at birth keeps getting more skewed.

Female infanticide (killing of girl infants) is still prevalent in some rural areas. Sometimes this is infanticide by neglect, for example families may not spend money on critical medicines or withhold care from a sick girl.

Continuing abuse of the dowry tradition has been one of the main reasons for sex-selective abortions and female infanticides in India.

Bride Buying: An emerging evil

Inverse sex-ratio in otherwise economically well off states is forcing the unmarried males to resort to bride buying from far off states facing poverty.³ Women are being traded as commodities. All lofty talks of human rights and women empowerment are only a refrain of alien language for such victims.

Rape

Rape in India has been commonly described as one of India's most common crimes against women. The UN's human-rights chief has called it as a "national problem" of India.

"This is a national problem, affecting women of all classes and castes, and will require national solutions," Navi Pillay, UNHCR Chief.⁴

Sexual harassment

Eve teasing is a euphemism used for sexual harassment or molestation of women by men. Of the total number of crimes against women reported in 1990, half related to molestation and harassment in the workplace. In Visakha case the Supreme Court of India took a strong stand against sexual harassment of women in the workplace. The Court also laid down detailed guidelines for prevention and redressal of grievances.⁵ The National Commission for Women subsequently elaborated above guidelines into a Code of Conduct for employers. In 2013 India's top court investigated on a law graduate's allegation that she was sexually harassed by a recently retired Supreme Court judge.

Trafficking

The Immoral Traffic (Prevention) Act was passed in 1956. However many cases of trafficking of young girls and women have been reported. These women are either forced into prostitution, domestic work or child labour.

Other disadvantages faced by women

Health

The average female life expectancy today in India is low compared to many countries, but it has shown gradual improvement over the years. In many families, especially rural ones, girls and women face nutritional discrimination within the family, and are anaemic and malnourished.

The maternal mortality in India is the 56th highest in the world. 42% of births in the country are supervised in Medical Institution. In rural areas, most of women deliver with the help of women in the family, contradictory to the fact that unprofessional or unskilled deliverer lacks the knowledge about pregnancy.

The Global Gender Gap Report 2013 shows that when it comes to women's health and survival, India's performance is prima facie gloomy (at 134th place among 136 countries). India has one of the worst maternal mortality rates in the world. 57.9% pregnant women and 56.2% married women suffer from anaemia: clearly culprits are poverty, chronic malnutrition, and gender biases that affect the vast majority of Indian women.⁶

Family planning

The average woman living in a rural area in India has little or no control over becoming pregnant. Women, particularly women in rural areas, do not have access to safe and self-controlled methods of contraception. The public health system emphasises permanent methods like sterilisation, or long-term methods like IUDs that do not need follow-up. Sterilization accounts for more than 75% of total contraception, with female sterilisation accounting for almost 95% of all sterilisations.

Literacy and education

It is 56.99% for women as against the 64.32% for the whole population. For men literacy rate is 71.22%. Gap is there between male and female literacy rates. Not only this, quality of education is also very poor in Indian schools as has been pointed out by UNESCO.⁷

Discrimination in political arena

Women are grossly underrepresented in parliament and assemblies. Women reservation bill is hanging fire for a long time.

In PRIs and Urban local bodies where reservation has been granted to women, 'panch pati' syndrome (husband acting on behalf of elected woman) is turning the legal provisions topsy turvy.

Workplace

Hostile environment at workplace due to sexual harassment and stereotypes.

Prohibition of women's employment at some workplaces categorized as hazardous. Such provisions, on the one hand, purport to safeguard the person of a woman and on the other hand, the same provisions restrict a woman from availing work opportunities in these prohibited areas.

Most of the women work in the household which is an unorganized sector and her income is seldom recognized as of any value to the family. She takes care of the household works, children, farm labour etc.

Reluctance to hire women employees

Some unforeseen effects of sexual harassment law have also started showing up. While it's too early to tell what long-term impacts this may have, it is a concern that managers may become more reluctant to hire women. Alarming, some judges are now apparently refusing to hire female interns.⁸

Incessant Irony: malady managing existence by dodging remedy

To address every problem, disadvantage there is a corresponding law in existence yet we have not been able to eradicate these problems.

What have we achieved as result of the legal and policy support for women?

Where do we stand now in global perspective?

The Global Gender Gap Index examines the gap between men and women in four fundamental categories for 136 countries, India's rank in each category is also shown below:

- Economic Participation and Opportunity (India rank: 124)
- Educational Attainment (India rank: 120)
- Health and Survival (India rank: 135)
- Political Empowerment (India rank: 9)
- Overall rank of India stands at 101 among 136 countries.⁹

Clearly the position of women is not pleasant in India. On three indices out of four we have floundered. Only index of political empowerment gives some solace.

One irresistible conclusion emerges: Something is all obstinate is there that is not allowing us to obliterate the gender inequalities. Something is there which is putting fetters on legs of law. What else it can be except the social conditioning? Our aim in creating a structure of law was to conquer this adverse conditioning for liberation of women. Though some success has been achieved but social opinions, attitudes, stereotypes, customs and vested interests are proving hard nut to crack.

How this conditioning is thriving can be gauged from the fact that in the wake of several brutal rape attacks in the capital city of Delhi, debates held in other cities revealed that men believed women who dressed provocatively deserved to get raped; many of the correspondents stated women incited men to rape them.¹⁰

On the contrary, women's movements blame it on the thinking and attitude of men towards women.¹¹ Stereotypes and attitudes are also sustaining gender-injustice. A Thomas Reuter Foundation article establishes this view.¹²

Misusers of law: motivated actions of a minority marring interests of a majority

A small section of women has started misusing feminine law for narrow gains. This section, in the process, erodes, in a big way, compassion for cause of women as a

whole. Such fake victims should not be allowed to unleash legal terrorism on innocent population. The majority of marooned women avoidably earns bad name due to some acts of a minority of motivated women.

For instance, anti-dowry laws are also being put to blatant and rampant misuse.¹³

We all know that icon of anti dowry system Nisha Sharma turned out to be a con of devilry.¹⁴

Taking serious note of this practice of settling scores with in laws by a bride or bride's parental relations, the Supreme Court of India and Law Commissions have also suggested making section 304B IPC as a bailable offence.¹⁵

Equally important is the sincerity of the application of sexual assault laws. It has been seen that laws are being misused to the hilt by some fake complainants. A survey conducted by the Times of India reported that in the NCR region 20% of the cases of sexual harassment have been found to be false.¹⁶

This is really very alarming when we consider that these laws have very stringent punishments to the extent that an accused is presumed guilty until proven innocent; which is obviously reverse of the normal jurisprudence. An innocent accused gets condemned with loss of social reputation.

Let's not forget that such laws were created for the benefit of actually harassed women. A noble intent gave rise to such laws. And if these get misused for personal petty gains by some busybodies to blackmail innocent male members of the society then such laws run the real risk of losing trust of the society as a whole. In this way, the acceptance of laws gets severely hit and then, people take recourse to alternative social forums/customs for the adjudication of their disputes.

Needless to say, a state is the protector of genuine complainants/victims hence the state should not allow itself to be arm-twisted and misused by false complainants who give a body-blow to the complete movement of emancipation of women facing sufferings and hardships. Only a strict and sincere application of the otherwise stringent laws can save the situation.

Legal provisions to check misuse of law

Sections 182 / 211 IPC seem to have fallen in disuse thereby exposing well intentioned law prone to opportunistic misuse. Law like an organism needs an immune system for maintenance of its health. An immune system must work against opportunistic infections posing danger to the health of an organism. If these insincere invokers of law are not stopped in their tracks they would soon leave the law lampooned. To win the confidence of the society for the modern legislated laws, the state has to act both ways with equal sincerity i.e. protecting genuine complainants and punishing and discouraging the abusers of process.

In this regard, the top court of India has currently pronounced two important judgements. In one of these, it has ruled that in case of acquittal of an accused due to lapse on the part of police or prosecution, the officers concerned shall be taken to task.¹⁷

In another case, the apex court has ordered that police officer or prosecution will face punitive action if a false charge sheet is presented against an accused who is not actually guilty.¹⁸

These are obviously happy developments in the judicial process which may relieve the faith of common man in the law of books.

Neutralization of gains coming close on heels

Some of the practices rendering the gender laws ineffective are illustrated below:

1. The steps taken by the government for her economic empowerment like incentivising the purchase of property in her name are simply being used by many people to

use names of the women as mere parking slots of these properties. They do not seem to have any effective control over these properties.

2. To empower women through raising their economic status by giving them equal rights in their parental property, the parliament of India amended the Hindu Succession Act. But the entrenched social customs are not letting it happen in practice. People have begun hijacking of this law by emotionally and conditionally compelling daughters to relinquish their rights in favour of their brothers. The Parliament, in its best wisdom, empowered the women, i.e. the daughters by giving them shares in the property of their parents equal to the sons but the social customs are having their interplay of emotions, pride, love and affection in such a way that a daughter or sister gets swayed to leave such share to the source wherefrom she got. Some states have also facilitated such relinquishment by making it a stamp duty free transaction, in the process, reviving and sustaining old system notwithstanding a law mandating otherwise. With much fanfare we pass a law to empower a woman but with equal intensity a social custom works opposite and neutralize such empowering law.
3. Despite reservations given in representation to local bodies husbands and sons are working as de facto members. Woman representatives are de jure members.
4. Even such cases have also come to light where women have been used to settle personal scores by vested interests. For example, a case was registered at Punhana police station of Mewat district in Haryana last year and four residents of New Delhi were booked in a case of gangrape. Later, it was found that the case was registered to settle a property-related dispute.¹⁹

Mainstreaming and the moulding of mentality: a way forward

Mainstreaming concerns with increasing participation of women by bringing their experience, knowledge and interests, much like men, on the development agenda of the country. But it requires changes in goals, strategies and actions so that both women and men can influence and benefit from development processes. It further entails transformation of unequal social and institutional structures into equal and just structures for both men and women.

United Nations Economic and Social Council (ECOSOC) has defined the concept of gender mainstreaming as "Mainstreaming a gender perspective is the process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in any area and at all levels. It is a strategy for making the concerns and experiences of women as well as of men an integral part of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres, so that women and men benefit equally, and inequality is not perpetuated. The ultimate goal of mainstreaming is to achieve gender equality."²⁰

Along with law, **education is also an agent of change**. It brings about refreshed outlook on the issues of women. Education creates awareness among various sections of society by infusing ideas of various radical and traditional thinkers in the common social conscience. Education is a tool which can bring about radical reforms in the attitude of men and women to have regard for each other's cherished freedom. Counseling in institutions on the issues of gender sensitivity can come handy to achieve perceptible and permanent change.

56.99% women and 71.22% men are literate in India. Clearly, a big gap is there between male and female literacy rates. But encouraging fact is that this gap is squeezing further in every new census which necessarily means that female education is picking pace at a rate faster than male education.

Democratically beneficial debates sprout up as many thoughts contained in the college, university books are apparently at loggerheads with the traditional wisdom of our social customs. These debates then throw up some acceptable solutions.

Male mentality towards women also needs to change by leaving aside psyche of labeling of women and then, by adopting attitude of equal partnership in the making of a world livable with justice, liberty and equality. 'Live and let live' slogan best characterizes sentiments necessary for freedom of women and men as well.

But, simultaneously, the modern woman freed from the local obsolete moral and social norms is being exposed to newer kinds of safety concerns as it must not be forgotten that these social customs are so entrenched in social system that these are not ready to go away easily. Rather, these are trying to keep the modern legislated law also in their trance.

Finally, it must be said that all efforts on emancipation have not gone down the drain. Academic debates, media campaigns, information systems, participation of civil society and NGOs, some success stories of women have started bearing fruit to convince the society about value of actual and potential contributions by women world to the world of humanity of which women are integral and sacred part.^{21,22}

Conclusion

The local feudal and medieval customs of dowry, preference for a male child, confinement of women to household works, not giving importance to literacy of women, women's health, preventing them from proprietary rights, treating them as commodities so on and so forth need to be abjured as individual freedom has already become the fresh buzzword of present body-politic.

Undeniably, the main reason for the gap between objectives and achievements of laws lies in the inefficient implementation and then neutralization of the gains made by otherwise well-intentioned laws. Whatever little an overt current of laws is apparently proposing for the weaker sex, the covert stream of conditioned social system is disposing the same. Therefore, many analysts are now increasingly in agreement with the view that the woman has received an apparent empowerment at the hands of the law but the rigidity of age old social conditioning is not letting it happen on the ground.

Though, we have succeeded in bringing into existence a somewhat effective legal environment where the modern woman feels somewhat liberated and participating in the continuing progress of the society and the nation. Yet, it has also been seen that in spite of such vast amount of public laws presumably protective of women, we are still far away from achieving true and total objectives. Education working hand in hand with legal structure holds the promise of bringing about a qualitatively positive change to the plight of women.

Therefore, legal rhetoric needs to be replaced by legal reality where the objects and reasons of every piece of legislation become manifest in their impact on the ground.

REFERENCES

1. <http://www.hindustantimes.com/comment/samar/men-are-conditioned-to-think-that-a-woman-should-be-put-in-her-place/article1-1164123.aspx>
2. <http://indialawyers.wordpress.com/2009/02/18/the-ideal-of-women's-emancipation/>

3. <http://www.tribuneindia.com/2003/20030818/main8.htm>
4. <http://www.hindustantimes.com/india-news/newdelhi/rape-is-a-national-problem-in-india-un-rights-chief/article1-983706.aspx>
5. <http://www.iitb.ac.in/WomensCell/data/Vishaka-Guidelines.pdf>
6. http://www3.weforum.org/docs/WEF_GenderGap_Report_2013.pdf
7. <http://timesofindia.indiatimes.com/india/In-India-poor-kids-are-illiterate-despite-4-years-of-education-Unesco-report/articleshow/29524124.cms?intenttarget=no>
8. <http://www.theguardian.com/commentisfree/2013/nov/29/india-sexual-harassment-women-workplace>
9. http://www3.weforum.org/docs/WEF_GenderGap_Report_2013.pdf
10. http://articles.timesofindia.indiatimes.com/2014-01-29/india/46781239_1_remarks-nirbhaya-case-mp-supriya-sule
11. <http://indiatoday.intoday.in/story/sexual-violence-against-women-delhi-stages-slut-walk/1/146638.html>
12. <http://www.trust.org/item/20140108132548-jopgc/?source=hpblogs>
13. <http://archive.indianexpress.com/news/false-dowry-cases-draw-ire-of-activists/1086710/>
14. <http://indiatoday.intoday.in/story/nisha-sharma-dowry-case-noida-court-acquits-all-accused/1/176012.html>
15. http://articles.timesofindia.indiatimes.com/2011-02-24/jaipur/28627654_1_dowry-harassment-compoundable-bailable-offence
16. http://articles.timesofindia.indiatimes.com/2008-12-29/delhi/27912936_1_sexual-assault-false-cases-delhi-police
17. <http://www.firstpost.com/india/erring-police-officials-should-be-punished-if-accused-acquitted-sc-1327397.html>
18. http://articles.timesofindia.indiatimes.com/2014-01-23/india/46513177_1_trial-court-woman-sub-inspector-acquitted-man
19. http://articles.timesofindia.indiatimes.com/2012-06-13/india/32214327_1_false-cases-mewat-personal-scores
20. <http://www.un.org/womenwatch/osagi/pdf/ECOSOCAC1997.2.PDF>
21. <http://timesofindia.indiatimes.com/india/Disappearing-daughters-alarm-Gujarats-villages/articleshow/29740682.cms?intenttarget=no>
22. http://articles.timesofindia.indiatimes.com/2012-07-26/india/32868444_1_khap-panchayat-female-feticide-bibipur-village